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FACSIMILE COVER SHEETTIME: 2:25 pm MST

DATE: May 19, 2005

Please deliver the following page(s) to:

Name: U.S. Patent and Trademark Office

Facsimile Number: 703/872-9306

Our Client No.: 4366-33

Your Ref.: Serial No. 09/247,893 filed 02-10-1999

Total Number of Pages, including this cover page: 9

Sender's Name: Douglas W. Swartz

MESSAGE:

Please see the attached Third Supplemental Information Disclosure Statement, PTO-1449, and copy of the cited reference to be filed in connection with the above-referenced patent application.

PLEASE CONFIRM RECEIPT

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MAY 19 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/247,893
Applicant : EDWARDS et al.
Filed: : February 10, 1999
TC/A.U. : 2642
Examiner: : WILLIAM J. DEANE, JR.
Docket No. : 4366-33
Customer No. : 48500
Title: : "DYNAMICALLY ALLOCATING SERVER RESOURCES TO COMPETING
CLASSES OF WORK BASED UPON ACHIEVEMENT OF SERVICE GOALS"

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THIRD SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

☒ Copies of the cited non-patent, unpublished patent application, and/or foreign references are enclosed herewith.

☐ Copies of the cited U.S. patents/patent application publications are not enclosed in accordance with the waivers dated July 11, 2003 and October 19, 2004, whereby patent applications filed, regardless of the filing date, need not submit copies of U.S. patents and U.S. patent application publications.

☐ Copies of the cited references are not enclosed, in accordance with 37 C.F.R. 1.98(d), because the references were cited by or submitted to the U.S. Patent and Trademark Office in prior application Serial No. _____ filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120.

☐ To the best of applicants' belief, the pertinence of the foreign-language references are believed to be summarized in the attached English abstracts and in the figures, although applicants do not necessarily vouch for the accuracy of the translation.

☐ Examiner's attention is drawn to the following co-pending applications:

Serial No. _____ filed _____

☒ Other: Enclosed herewith is a copy of an Examiner's Refusal Decision for Japanese Patent Application No. 2000-34267, which is the Japanese counterpart of the above-identified patent application.

Submission of the above information is not intended as an admission that any item is citable under the statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

<input type="checkbox"/>	<p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith satisfies one of the following conditions ("X" indicates satisfaction):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or <input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or <input type="checkbox"/> Before the mailing date of a first Office Action on the merits, or <input type="checkbox"/> Before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114. <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Avaya Inc. Deposit Account 50-1602.</p>
<input checked="" type="checkbox"/>	<p>37 CFR 1.97(c): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <ul style="list-style-type: none"> (1) a final action under 37 C.F.R. 1.113 or (2) a notice of allowance under 37 C.F.R. 1.311, or (3) an action that otherwise closes prosecution in the application. <p>This Information Disclosure Statement is accompanied by:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(c). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Avaya Inc. Deposit Account 50-1602. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> <input type="checkbox"/> Please charge Avaya Inc. Deposit Account 50-1602 in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Avaya Inc. Deposit Account 50-1602.
<input type="checkbox"/>	<p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <ul style="list-style-type: none"> <input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(c) <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> <input type="checkbox"/> Applicants hereby requests consideration of the reference(s) disclosed herein. Please charge Avaya Inc. Deposit Account 50-1602 in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Avaya Inc. Deposit Account 50-1602. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification.

Certification (37 C.F.R. 1.97(e))
(Applicable only if checked)

☒ The undersigned certifies that:

☒ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).

☒ A copy of the communication from the foreign patent office is enclosed.

OR

☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Douglas W. Swartz

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Date: May 19, 2005

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Complete if Known	
				Application Number	09/247,893
				Filing Date	February 10, 1999
				First Named Inventor	EDWARDS, Thomas J.
				Art Unit	2642
				Examiner Name	WILLIAM J. DEANE, JR.
Sheet	1	of	1	Attorney Docket Number	4366-33

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ^{2,3,4,5,6}	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

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OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)		
Examiner Initials*	Cite No. ¹	
	1.	Examiner's Refusal Decision for Japanese Patent Application No. 2000-34267 dated March 9, 2005, with translation, 4 pages.

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference is considered, whether or not citation is in conformance and not considered. Include copy of this form with next communication to applicant.